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ASSOCIATED GENERAL CONTRACTORS
OF AMERICA, SAN DIEGO CHAPTER, INC.
APPRENTICESHIP & TRAINING TRUST
FUND

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SOHIL KARIMY,
Plaintiff,

v.

ASSOCIATED GENERAL CONTRACTORS OF
AMERICA – SAN DIEGO CHAPTER, INC.,
APPRENTICESHIP & TRAINING TRUST FUND,
Defendant.

Case No. 08 CV 0297 MJL (CAB)

DEFENDANT ASSOCIATED
GENERAL CONTRACTORS OF
AMERICA, SAN DIEGO CHAPTER,
INC. APPRENTICESHIP & TRAINING
TRUST FUND'S NOTICE OF MOTION
AND MOTION TO DISMISS WITH
PREJUDICE
[FED.R.CIV.P. §12(b)(1)]

Judge M. James Lorenz

Date: June 23, 2008
Time: 10:30 a.m.
Ctm: 14

TO PLAINTIFF AND TO HIS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on June 23, 2008, at 10:30 a.m., or as soon thereafter
as the matter may be heard, in the courtroom of the Honorable M. James Lorenz, or such
other location as may be ordered by the Court, Defendant ASSOCIATED GENERAL
CONTRACTORS OF AMERICA, SAN DIEGO CHAPTER, INC. APPRENTICESHIP &
TRAINING TRUST FUND ("Defendant" or "Trust Fund") will move this Court for an order
dismissing the above-captioned action with prejudice on the grounds that this Court lacks
subject matter jurisdiction over the present action pursuant to Federal Rules of Civil

1 Procedure 12(b)(1).

2 Defendant brings this Motion against all claims asserted by Plaintiff against it, on the
3 ground that Plaintiff and Defendant contracted to resolve the disputes set forth in the present
4 action through binding arbitration. Alternatively, Trust Fund brings this motion to dismiss as
5 a “non-enumerated” Rule 12(b) motion to dismiss for failure to exhaust non-judicial
6 remedies. This action is subject to the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (“FAA”).

7 Defendant’s Motion is based on this Notice of Motion; the accompanying
8 Memorandum of Points and Authorities; the Declaration of David P. Wolds; the Declaration
9 of Pete Saucedo in Support of Motion; all other pleadings filed concurrently herewith; as well
10 as the records and files herein and on such evidence as may be presented at the hearing on
11 this Motion.

12 Respectfully Submitted,

13 DATED: March 28, 2008

PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP

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